

BILL NO. S-74-07- 53

SPECIAL ORDINANCE NO. S- 125-74

AN ORDINANCE approving a contract with JOHN
DEHNER, INC. for work on Harvester Drain Project

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
WAYNE, INDIANA:

SECTION 1. A certain contract dated July 5, 1974, between the City
of Fort Wayne, Indiana, by and through its Mayor and the Board of Public Works
and JOHN DEHNER, INC., for:

Construction of The Harvester Drain Storm Relief System
Resolution No. 283, Fort Wayne, Indiana, Department of
Housing and Urban Development, Project No. WS-IN-05-36-1001

for a total cost of \$1,337,327.53, all as more particularly set forth in said contract
which is on file in the office of the Board of Public Works, and is by reference
incorporated herein and made a part hereof, is hereby in all things ratified, con-
firmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and
after its passage and approval by the Mayor.

William T. Hingua
Councilman

APPROVED AS TO FORM
AND LEGALITY.

Neil S. G.
CITY ATTORNEY

Read the first time in full and on motion by Hinga, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 7/23/74

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Hinga, seconded by V. Schmidt, and duly adopted, placed on its passage.

Passed (~~HEAT~~) by the following vote:

	AYES <u>5</u>	NAYS <u>1</u>	ABSTAINED _____	ABSENT <u>3</u>	to-wit:
BURNS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
KRAUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
NUCKOLS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SCHMIDT, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SCHMIDT, V.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
STIER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
TALARICO	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

DATE: 8-13-74

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (~~General~~) (~~Annexation~~) (~~Special~~) (~~Appropriation~~) Ordinance (~~Resolution~~) No. J-125-74 on the 13th day of August, 1974.

ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

Ernest Brown
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of August, 1974, at the hour of 11:00 o'clock A. M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 14th day of August, 1974, at the hour of 4:00 o'clock P. M., E.S.T.

Law A. Lubanoff
MAYOR

Bill No.

S-74-07-53

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance
approving a contract with JOHN DEHNER, INC. for work on Harvester Drain
Project

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance PASS.

William T. Hinga - Chairman

John Nuckols - Vice-Chairman

James S. Stier

Winfield C. Moses, Jr.

Paul "Mike" Burns

William T. Hinga
John Nuckols

James S. Stier
Winfield C. Moses, Jr.
Paul "Mike" Burns

CONCURRED IN

DATE 8-13-74 CHARLES W. WESTERMAN, CITY CLERK



THE CITY OF FORT WAYNE
board of public works

July 9, 1974

The Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

On June 30, 1974 the Board of Works made a tentative award on the Harvester Drain Project, Resolution 283-1974 to John Dehner, Inc. in amount of \$1,337,327.53, contingent upon HUD and Council approval.


Bids on this project were taken in March but the award was delayed because it necessitated approval of additional funds from the County. This contribution has been approved together with HUD approval.

The contractor is threatened with a rise in the cost of materials and is quite anxious to place an order to cover the project.

The Board, therefore, deems it advisable to request "Prior Approval" of the contract with John Dehner, Inc. in amount of \$1,337,327.53.

Will submit for formal approval July 23, 1974.

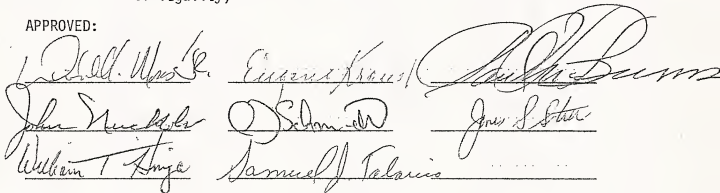
Sincerely,


Dr. Jerry D. Boswell, Chairman
Board of Public Works

JDB/ss

Attachment - (No copy of contract attached; it is in John Fleck's office for approval of legality)

APPROVED:


The following are the signatures of the members of the Common Council: William W. B. (William W. B.), Eugene Kraus, [Signature], John [Signature], [Signature], [Signature], William T. [Signature], Samuel J. [Signature], and [Signature].

MEMBERS OF THE COMMON COUNCIL

THIS AGREEMENT, made this _____ day of JUL 5 1974, 19____, by and

acting herein through its Board of Public Works, and
(Title of Authorized Official)

STRIKE OUT (a corporation) ~~(a partnership)~~
INAPPLICABLE (an individual doing business as: _____)
TERMS _____

of Fort Wayne, County of Allen, and State of Indiana

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

The Harvester Drain Storm Relief System - Resolution No.283 , Fort Wayne,
Indiana, Department of Housing and Urban Development, Project No. WS-IN-05-36-1001
Ft. Wayne One Million Three Hundred Thirty-Seven

hereinafter called the project, for the sum of Thousand Three Hundred Twenty-Seven Dollars
Dollars (\$ 1,337,327.53) and all extra work in connection therewith, under the terms
as stated in the General and Special Conditions of the Contract; and at his (its or
their) own proper cost and expense to furnish all the materials, supplies, machinery
equipment, tools, superintendence, labor, insurance, and other accessories and ser-
vices necessary to complete the said project in accordance with the conditions and
prices stated in the Proposal, the General Conditions, Supplemental General Con-
ditions and Special Conditions of the Contract, the plans, which include all maps,
plats, blue prints, and other drawings and printed or written explanatory matter
thereof, the specifications and contract documents therefor as prepared by the Water
Pollution Control Eng. Dept., herein entitled the Architect/Engineer, and as enum-
erated in Paragraph 1 of the Supplemental General Conditions, all of which are made
a part hereof and collectively evidence and constitute the contract.

The Contractor hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the project within 300 consecutive calendar days thereafter. The Contractor further agrees to pay, as liquidated damages, the sum of \$ 50.00 for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Paragraph 25, "Payments to Contractor", of the General Conditions.

CD-38

IN WITNESS WHEREOF, the parties to these presents have executed this contract in six (6) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

(Seal)
ATTEST:

(Secretary)

(Witness)

City of Fort Wayne, Indiana by and
through its Board of Public Works
(Owner)

By Jerry D. Boswell
Jerry D. Boswell, Chairman
Chairman, Board of Public Works
(Title)

(Seal)

Edward D. Dehner
(Secretary)
Richard E. Easley
(Witness)

JOHN DEHNER, INC.

(Contractor)
By John Dehner
PRESIDENT
(Title)
P.O. Box 1346
FORT WAYNE, INDIANA 46801
(Address)

NOTE: Secretary of the Owner should attest. If Contractor is a corporation, Secretary should attest.

John R. Fleck
Approved to form and legality.
John R. Fleck, Associate City Attorney

PERFORMANCE-PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we John Dehner, Inc.

(Name of Contractor)

a Corporation

(Corporation, Partnership, or Individual)

hereinafter called "Principal" and UNITED STATES FIDELITY & GUARANTY COMPANY

(Surety)

of BALTIMORE, State of MARYLAND, hereinafter

called the "Surety", are held and firmly bound unto The Board of Public Works

(Owner)

of Fort Wayne, Indiana, hereinafter called

(City and State)

"Owner" in the penal sum of One Million Three Hundred Thirty-Seven Thousand

Three Hundred Twenty-Seven Dollars and Twenty-Seven Cents Dollars

(\$ 1,337,327.53) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the day of JUL 5 1974, 19, a copy of which is hereto attached and made a part hereof for the construction of:

The Harvester Drain Storm Relief System - Resolution No. 283, Fort Wayne, Indiana,

Department of Housing and Urban Development, Project No. WS-IN-05-36-1001 Ft. Wayne

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, and shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in six (6) counterparts, each one of which shall be deemed an original, this the _____ day of JUL 5 1974, 19____.

ATTEST:

Edward F. Dehner
(Principal) Secretary
(SEAL)

JOHN DEHNER, INC.

Principal

By John Dehner (S)
P.O. Box 1346
FORT WAYNE, INDIANA 46801
PRESIDENT
(Address-Zip Code)

Richard E. Enley
Witness as to Principal
P. O. BOX 1345
FORT WAYNE, INDIANA 46801

UNITED STATES FIDELITY & GUARANTY COMPANY

Surety

ATTEST:

(Surety) Secretary
(SEAL)

By Donald Shirley
Attorney-in-Fact
P. O. Box 1367
Port Wayne, Indiana 46801
(Address-Zip Code)

Witness as to Surety
(Address-Zip Code)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond

YASTE, ZENT & RYE, INC.

Authorized Agents

By Harold A. Dohle

GENERAL POWER OF ATTORNEY

No. 81064

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint **C. H. Yaste, Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle, Fred S. Rye, Leonard Shirley and Josephine E. Stackhouse**

of the City of **Fort Wayne**, State of **Indiana**
its true and lawful attorney in and for the State of **Indiana**

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever ~~which~~ anyone of the said **C. H. Yaste** and the said **Arthur C. Frericks** and the said **Donald T. Belbutowski** and the said **Gerald A. Dahle** and the said **Fred S. Rye** and the said **Leonard Shirley** and the said **Josephine E. Stackhouse**

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this **24th** day of **April**, A. D. 19**70**

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By **Karl H. Doerre**

(SEAL)

(Signed) **J. E. Dallam**

Vice-President
Assistant Secretary

STATE OF MARYLAND,
BALTIMORE CITY,

ss:

On this **24th** day of **April**, A. D. 19**70**, before me personally came

Karl H. Doerre, Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and **J. E. Dallam**, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they resided in the City of Baltimore, Maryland; that they, the said **Karl H. Doerre** and **J. E. Dallam** were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order as Vice-President and Assistant Secretary, respectively, of the Company.

My commission expires the first day in July, A. D. 19**70**

(SEAL)

(Signed) **Herbert J. Aull**

Notary Public.

STATE OF MARYLAND,
BALTIMORE CITY,

Sc.

I, **Robert H. Bouse**, Clerk of the Superior Court of Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that **Herbert J. Aull**, Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgments, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Superior Court of Baltimore City, the same being a Court of Record, this **24th** day of **April**, A. D. 19**70**

(SEAL)

(Signed) **Robert H. Bouse**

Clerk of the Superior Court of Baltimore City.

COPY OF RESOLUTION

That Whereas, it is necessary for the effectual transaction of business that this Company appoint agents and attorneys with power and authority to act for it and in its name in States other than Maryland, and in the Territories of the United States and in the Provinces of the Dominion of Canada and in the Colony of Newfoundland.

Therefore, be it Resolved, that this Company do, and it hereby does, authorize and empower its President or either of its Vice-Presidents in conjunction with its Secretary or one of its Assistant Secretaries, under its corporate seal, to appoint any person or persons as attorney or attorneys-in-fact, or agent or agents of said Company, in its name and as its act, to execute and deliver any and all contracts guaranteeing the fidelity of persons holding positions of public or private trust, guaranteeing the performances of contracts other than insurance policies and executing or guaranteeing bonds and undertakings, required or permitted in all actions or proceedings, or by law allowed, and

Also, in its name and as its attorney or attorneys-in-fact, or agent or agents to execute and guarantee the conditions of any and all bonds, recognizances, obligations, stipulations, undertakings or anything in the nature of either of the same, which are or may by law, municipal or otherwise, or by any Statute of the United States or of any State or Territory of the United States or of the Provinces of the Dominion of Canada or of the Colony of Newfoundland, or by the rules, regulations, orders, customs, practice or discretion of any board, body, organization, office or officer, local, municipal or otherwise, be allowed, required or permitted to be executed, made, taken, given, tendered, accepted, filed or recorded for the security or protection of, by or for any person or persons, corporation, body, office, interest, municipality or other association or organization whatsoever, in any and all capacities whatsoever, conditioned for the doing or not doing of anything or any conditions which may be provided for in any such bond, recognizance, obligation, stipulation, or undertaking, or anything in the nature of either of the same.

I, **Richard Calder**, an Assistant Secretary of the UNITED STATES FIDELITY AND GUARANTY COMPANY, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney given by said Company to

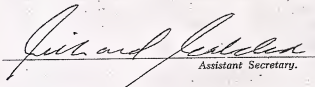
C. H. Yaste, Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle, Fred S. Rye, Leonard Shirley and Josephine E. Stackhouse

of **Fort Wayne, Indiana**, authorizing and empowering them to sign bonds as therein set forth, which power of attorney has never been revoked and is still in full force and effect.

And I do further certify that said Power of Attorney was given in pursuance of a resolution adopted at a regular meeting of the Board of Directors of said Company, duly called and held at the office of the Company in the City of Baltimore, on the 11th day of July, 1910, at which meeting a quorum of the Board of Directors was present, and that the foregoing is a true and correct copy of said resolution, and the whole thereof as recorded in the minutes of said meeting.

In Testimony Whereof, I have hereunto set my hand and the seal of the UNITED STATES FIDELITY AND GUARANTY COMPANY on

7/8/24 (Date)


Assistant Secretary.

DIGEST SHEET

2-74-07-53

TITLE OF ORDINANCE: Contract with John Dehner for Harvester Drain Project Res. 283-1974

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Request approval of contract with John Dehner, Inc. for work on Harvester Drain Project, Resolution 283-1974 in total amount of \$1,337,327.53.

(See Prior Approval Letter Attached)

EFFECT OF PASSAGE: Work done on Harvester Drain.

EFFECT OF NON-PASSAGE: Possible rise in cost of materials

MONEY INVOLVED (Direct Costs, Expenditures, Savings): _____

Cost to City: \$1,337,327.53.

ASSIGNED TO COMMITTEE (J.N.): Finance